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30 April 1986

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MEMORANDUM FOR: [REDACTED]
SA/Legislation Division/OCA

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FROM: [REDACTED]
Chief, Community Counterintelligence Staff/IC Staff

SUBJECT: State Department Draft Report on S. 1900 Amending the Foreign Agents Registration Act, and S. 1901 Amending the Foreign Missions Act

REFERENCE: Your memo, same subject, dated 28 April 1986 (OCA 86-1380)

1. The proposed amendment (S. 1900) is very cumbersome. It requires the consultation of two heads of departments within the Executive Branch to reach agreement on exceptions to the Foreign Agents Registration Act (FARA) and then, having reached agreement, to report to both the SSCI and the HPSCI on the circumstances which require the waiver. This procedure, in effect, becomes an approval procedure, and the Congress will be taking to itself the powers properly vested in the Executive Branch. Screening of individuals falling under the proposed amendment can be improved by the expedient of tightening visa requirements and requiring a more extensive background and vetting procedure of visa applicants. The machinery to do this is already in place and requires no new law or elaborate procedure for waiver.

2. State's view that FARA was meant to apply only to long-term applicants is believed to be erroneous, and the belief that retaliation would ensue against our participants is dubious since US persons traveling in the countries concerned are already under a scrutiny which exceeds any which might be imposed under the present provisions of FARA. As a practical matter in FARA cases, prosecution is declined when the subject of the case merely agrees to register under the Act as an agent of the country he represents, which, in the instances discussed, would be his or her country of origin. Therefore, this office agrees with the State Department's position on the amendment to FARA, but for different reasons than those set forth by State.

3. Concerning the proposed amendment to the Foreign Missions Control Act (S. 1901), this office agrees in principle with the bill.

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